

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

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:
MONTVALE SURGICAL CENTER a/s/o MARIO :
VERA, :

Plaintiff, :

Case No. 12-CV-2376
(CCC)(JAD)

- against - :

HORIZON BLUE CROSS BLUE SHIELD OF :
NEW JERSEY, INC.; NORTHERN NEW JERSEY :
TEAMSTERS BENEFIT PLAN; ABC CORP. :
(1-10) (Said names being fictitious and :
unknown entities), :

Defendants.

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JOINT DISCOVERY PLAN

1. For each party, set forth the name of the party, attorney appearing, the firm name, address, e-mail address, telephone number and facsimile number.

Andrew R. Bronsnick
50 Packanack Lake Road East
Wayne, NJ 07470-6663
Phone 973-696-1900
Fax 973-696-4211
abronsnick@massoodlaw.com
Attorneys for Plaintiff Montvale Surgical Center

Matthew A. Baker
Connell Foley LLP
Liberty View Building
457 Haddonfield Road, Suite 230
Cherry Hill, NJ 08002
Phone: (856) 317-7100
Fax: (856) 317-7117
mbaker@connellfoley.com
Attorneys for Defendant Horizon Blue Cross Blue Shield

Lisa M. Gomez
Cohen, Weiss and Simon LLP

330 West 42nd Street
New York, NY 10036
Phone (212) 563-4100
Fax 646-473-8235
lgomez@cwsny.com
Attorneys for Defendant Northern New Jersey Teamsters Benefit Plan

2. The following is a brief description of the case, including the facts, causes of action and affirmative defenses asserted. Plaintiff alleges that it is an “out-of-network” medical practice that rendered services to an individual enrolled in the Northern New Jersey Teamsters Benefit Plan (“NNJ Plan”). Plaintiff alleges that the services provided to the individual were “medically necessary” and approved by “Horizon/Teamsters”. Plaintiff further alleges that “prior to [Plaintiff] rendering services, Horizon/Teamsters agreed to directly compensate Plaintiff their [usual, customary and reasonable] fee for the services provided” and “reasonably believed and relied upon Horizon’s express or implied representations” that Plaintiff would be paid their fee. Plaintiff alleges that it submitted a claim for benefits for such services to “Horizon/Teamsters” for \$16,450, of which the allowed amount was \$3,252.64 was allowed and payment issued in the amount of \$1,631.33, with the individual responsible for \$1,621.31 and the remaining \$13,197.36 not allowed. Plaintiff seeks payment of \$13,197.36, as well as compensatory damages, interest, fees and costs, asserting breach of contract claims against both Defendants, as well as claims for promissory estoppel, negligent misrepresentation and unjust enrichment.

Because the determination of whether plaintiff is entitled to payment of the benefits claimed to be owed will require the Court to interpret the terms of the NNJ Plan’s governing plan documents, plaintiff’s claims arise under Section 502(a)(1)(B) of ERISA, 29 U.S.C. § 1132(a)(1)(B) and any state law claims are completely preempted. Defendant Horizon Blue Cross Blue Shield has filed a motion to dismiss. Defendant NNJ Plan asserts that this action should be dismissed because: (1) payment was made to plaintiff in accordance with the

terms of the NNJ Plan's applicable plan of benefits and (2) plaintiff failed to exhaust the Plan's administrative remedies by properly appealing its claims.

3. This is a fee-shifting case pursuant to 29 U.S.C. Section 1132(g)(1).

4. This action has not been settled or discontinued.

5. No settlement discussions have taken place. Plaintiff's complaint demands payment of \$13,197.36, as well as compensatory damages, interest, fees and costs.

6. The parties will exchange the information required by Fed. R.Civ. P. 26(a)(1) at or before the July 18, 2012 conference. The parties have not conducted discovery other than the above disclosures.

7. Defendants seek discovery regarding, *inter alia*, the allegations contained in Plaintiff's complaint, including, but not limited to any alleged express or implied representations made regarding the amounts payable to Plaintiff; any correspondence or other communications made by Plaintiff or on Plaintiff's behalf concerning the claims at issue; all correspondence between the parties regarding any appeal of the claim at issue; the claims for which Plaintiff is seeking payment in this action and Plaintiff's claimed damages. Discovery should not be conducted in phases or be limited to particular issues. Maximum of 25 interrogatories (including subparts) by each party to each other party. Maximum of 10 depositions to be taken by each party. No discovery issues, challenges or problems are anticipated at this time, and no special discovery needs are anticipated at this time.

8. Schedule:

- Fact discovery to be completed by October 18, 2012
- Motions to amend or to add parties to be filed by November 18, 2012
- Plaintiff's expert report (if needed) due on February 1, 2013
- Defendant's expert report (if needed) due on February 8, 2013

- Expert depositions to be completed by March 1, 2013.
- Dispositive motions to be served by May 1, 2013.

Dated: July 12, 2012

By: /s/ Andrew R. Bronsnick
Andrew R. Bronsnick

LAW OFFICES OF JOSEPH A. MASSOOD
50 Packanack Lake Road East
Wayne, NJ 07470
(973) 696-1900
Attorneys for Plaintiff

By: /s/ Lisa M. Gomez
Lisa M. Gomez
COHEN, WEISS AND SIMON LLP
330 West 42nd Street - 25th Floor
New York, NY 10036
(212) 563-4100
Attorneys for Defendant
Northern NJ Teamsters Benefit Plan

By: /s/ Matthew A. Baker

Matthew A. Baker
Connell Foley LLP
Liberty View Building
457 Haddonfield Road, Suite 230
Cherry Hill, NJ 08002
Phone: (856) 317-7100
Fax: (856) 317-7117
mbaker@connellfoley.com
Attorneys for Defendant Horizon Blue Cross Blue Shield